CWP No.682 of 2000.

14.8. 2007 Present : Mr.V.D.Khidtta, counsel for the petitioner.
None for the respondents.

This writ petition is directed against the order of the learned H.P.State Administrative Tribunal dated 26.11.1999 passed in TA No.144 of 1986.

The respondent N.P.Garg at the relevant time was serving as Assistant Engineer in H.P. University, Shimla. A departmental inquiry was held against him for embezzling the funds of the University. He was found guilty of defalcation of some amount and penalty of dismissal from service was imposed upon him. Sh.N.P.Garg challenged this order by filing a writ petition before this Court which was numbered as CWP No.364 of 1986. On the formation of the H.P. State Administrative Tribunal the case was transferred and registered as TA No.144 of 1986.

The learned Tribunal has come to the conclusion that the penalty imposed upon the applicant was disproportionate in view of the facts that he had deposited the amount alleged to have embezzled by him and also that he had himself left the job of the petitioner University and joined the North East Hill University, Shillong. It was in the context of these grounds that a lenient view was taken by the Tribunal and the order of penalty was modified and the penalty of dismissal from service was set-aside and only the penalty of recovery of the defalcated amount was maintained.

Normally a Court or Tribunal should not interfere in the penalty imposed by the disciplinary authority except where it is grossly disproportionate or shocks the judicial conscience of the

Court. However, this case has its own peculiar facts. The inquiry relates to the year 1980. More than 27 years have elapsed. In the meantime the employee has left the job of the University after depositing the amount allegedly embezzled by him. He has now reached to the rank of Chief Engineer in the North East Hill University, Shillong. Therefore, balancing all the equities, at this stage we do not feel that it is a case where we should interfere in the order passed in the O.A. by the learned Tribunal. Petition rejected. No costs.

(Deepak Gupta),
Judge

August 14, 2007 **(V.K. Ahuja)**
PV **Judge.**